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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,993

07/25/2005

Egidio Renna

2527-1010

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466

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12/16/2008

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,993	<b>Applicant(s)</b> RENNA, EGIDIO	
	<b>Examiner</b> Robert M. Fetsuga	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-22 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/05/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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1. Applicant's election without traverse of Species IX in the reply filed on September 02, 2008 is acknowledged. Accordingly, claims 21 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The declaration filed July 25, 2005 is defective. A new declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The declaration is defective because:

The application had been amended at the time of execution, but such is not reflected therein.

3. The drawings are objected to because reference numeral "6" denotes different structure in Figs. 1, 2, 4 and 9-12, reference numeral "8" denotes different structure in Figs. 3 and 18, reference numeral "19" (pg. 5 ln. 6) is missing, reference numeral "29" (pg. 6 ln. 1) is missing, reference numeral "52" apparently should be --51-- in Fig. 21 (pg. 7 ln. 3), reference numeral "61" apparently should be --62-- in Figs. 27 and 28 (pg. 7 ln. 26), reference numerals "58" and "66" (pg. 7 lns. 22 and 30) are missing, reference numeral "86" (pg. 8 ln. 22) is missing, reference numerals "97" and "98" (pg. 9 lns. 4 and 7) are missing, reference numeral "112" apparently should be

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--114-- in Fig. 66 (pg. 10 ln. 2), reference numeral "38" apparently should be --118-- in Figs. 67, 68, 70 and 71 (pg. 10 ln. 6), and reference numeral "124" (pg. 10 ln. 17) is missing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. The disclosure is objected to because of the following informalities: Page 7, line 8, "51" apparently should be --49--; page 8, line 30, "49" apparently should be --48--; and page 9, line 8, "100" apparently should be --99--. Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "Home bath" set forth in claim 19 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s). It is also noted that "seats" at lines 4 and 8 of claim 19 should be --seat-- (pg. 6 ln. 24).

6. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim appears to recite that the leg 43 of the T-shaped supporting element 42 is "pivotally" mounted to the bath lip 44

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(note lines 3 and 10). This subject matter is not found in the originally filed disclosure and is therefore considered to be new matter.

7. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is unclear as to the relationship between the "bath seat" on line 2 thereof, and the "seat(s)" on lines 4 and 8 of claim 19.

The claim is unclear as to the relationship between the "intermediate T-shaped supporting element" on line 4 thereof, and the "supporting means" on line 7 of claim 19.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior

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art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butler '447 and Fernie et al.

The Butler '447 (Butler) reference (Figs. 7-10) discloses a bath comprising: a body 20 including a seat (Fig. 7); and a pedaling apparatus 300 including supporting means 100. Therefore, Butler teaches all claimed elements except for the material of the bath.

Although the Butler bath may not be enameled metal or plastic, as claimed, attention is directed to the Fernie et al. (Fernie) reference which discloses an analogous bath 1 which further is plastic (Fig. 6). Therefore, in consideration of Fernie, it would have been obvious to one of ordinary skill in the bath art to associate plastic with the Fernie bath in order to utilize a strong, lightweight, moldable material.

10. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

11. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886

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who can be most easily reached Monday through Thursday. The  
Office central fax number is 571/273-8300.

/Robert M. Fetsuga/  
Robert M. Fetsuga  
Primary Examiner  
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